

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA,	*	CASE NO.: 13-58 (ADC)
	*	
Plaintiff	*	
	*	
vs	*	
	*	
BRETT JONES-THEOPHILIOUS,	*	
	*	
Defendant	*	January 15, 2013
	*	Hato Rey, Puerto Rico

PRELIMINARY/BAIL HEARING

HELD BEFORE THE HONORABLE MARCOS E. LÓPEZ
UNITED STATES MAGISTRATE JUDGE
FEDERAL BUILDING, HATO REY, PUERTO RICO

APPEARANCES:

FOR PLAINTIFF	:	Ernesto López-Soltero, Esq.
FOR DEFENDANT	:	Mr. Brett Jones-Theophilious (<i>pro se</i>).
COURT REPORTER	:	FTR

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1 PROCEEDINGS

2 (9:37 A.M.)

3 THE COURT: Let's call the first case.

4 COURTROOM DEPUTY: United States of America versus
5 Brett Jones, Criminal Case Number 12-1627 (M), Preliminary
6 Examination Bail Hearing.

7 On behalf of the Government, AUSA Ernesto López-
8 Soltero. On behalf of Defendant, *pro se*, Brett Jones, and
9 standby Counsel FPD Lydia Marrero.

10 MR. LÓPEZ-SOLTERO: Good morning, Your Honor. The
11 Government is ready to proceed.

12 THE COURT: Good morning. Sir, could you please...
13 I just... well, first of all, I think that the last time you
14 indicated to me, sir, that you prefer not to be called Mr.
15 Jones. That you prefer to be called Brett. Is that right?

16 DEFENDANT: Well, my name has never been Mr. Jones.
17 I've always been Brett Son of Isaac.

18 THE COURT: Alright. So, you would like... how do
19 you like to be called, sir, Brett?

20 DEFENDANT: Brett.

21 THE COURT: Alright, so, I'll call you as you like
22 to be... I'll address as you would like to be addressed.

23 Brett, I think that last time when you were here I
24 advised you that it was in your best interest to be
25 represented by Counsel, and you told me that you were going to

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1 think about it.

2 Even though originally you had told that you wish to
3 represent yourself, that, during this period of time, you were
4 going to think about that decision.

5 Have you reconsidered your decision as to whether
6 you would like to be represented by Counsel? Because, if you
7 would like to be represented by Counsel, that is something
8 that can be worked out in terms of providing you an attorney
9 to represent you in these proceedings.

10 DEFENDANT: There are a couple of things that need
11 to be stated along that line. First, I assured this particular
12 body (phonetic) that I would give that some thought, and I
13 have.

14 I am here in Special Appearance. I'm not
15 representing anyone. I'm sorry, but there is an issue with me
16 and certain words that I choose not to use.

17 I am not...because there is a lot of talk going
18 around these last couple of days... a sovereign American,
19 never claimed to be, never will be.

20 So, we, hopefully, can get that out of the air now
21 so that I will not be treated as individuals who come before
22 courts, and claim that they're sovereign, and the Court has no
23 jurisdiction or authority.

24 I am fully versed in matters of law, whether
25 criminal or civil. I understand the procedures of the Court. I

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1 also understand case law, and how it is used in several
2 different cases.

3 I understand the Collective Entity Theory. I
4 understand several things that have been ruled by the Court,
5 such as Bond versus the United States, where the Supreme Court
6 stated that the Federal jurisdiction cannot supersede State
7 jurisdiction.

8 So, I believe that I am well-versed and completely
9 capable of speaking on behalf of the Defendant, and speaking
10 on behalf of myself.

11 THE COURT: So, the short answer to my question is,
12 sir, is that you do not want to be represented by Counsel?

13 DEFENDANT: That is correct.

14 THE COURT: Do you understand that it is in your
15 best interest to be advised by somebody who is educated and
16 versed in the law?

17 DEFENDANT: I consider myself to be that
18 individual.

19 THE COURT: Alright, very well. Well, sir, please
20 have a seat at Counsel's table. And, at this moment, we're
21 going to proceed with the Preliminary and Bail Hearing.

22 But, please understand, sir, that you will have to
23 follow the rules of procedures for these Federal proceedings.
24 Alright?

25 DEFENDANT: That is correct.

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1 THE COURT: So, that Minutes shall reflect that the
2 Defendant has once again indicated that he does not wish to be
3 represented by Counsel.

4 Therefore, in terms of Discovery, the Government
5 shall have made the necessary arrangements to produce a
6 Discovery, and make the Discovery available to the Defendant,
7 either at MDC or, depending on what happens at the Bail
8 Hearing, to the Defendant himself, if conditions of release
9 are granted.

10 Alright, so, being that the case, sir, please have a
11 seat.

12 DEFENDANT: I just received this maybe two minutes
13 before you walked in, and I haven't had a chance to review it.

14 THE COURT: I think that's a fair point that you're
15 making. I'll give you an opportunity to be able to read the
16 Pre-Trial Services Report.

17 So, why don't you have a seat at Counsel's table,
18 and that way I'll give an opportunity before we begin with the
19 proceedings so that you can fully read the Pre-Trial Services
20 Report. Alright?

21 I know we also have a Change of Plea Hearing set for
22 9:30 A.M. Are we ready for that Change of Plea Hearing in
23 terms of the Plea Agreement or do the parties need a little
24 more time?

25 UNIDENTIFIED SPEAKER: Can we have five minutes,

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1 Your Honor?

2 THE COURT: Okay, that's fine. I'll... so what I'm
3 going to do is I'm going to take a five minute recess so that
4 way Brett can read the Pre-Trial Services Report.

5 And, if you need to work out anything on the Plea
6 Agreement, then we'll start with whichever of the two hearings
7 is ready first. Alright? So, a five minute recess.

8 (Off the record.)

9 (Brief recess.)

10 (Back on the record.)

11 THE COURT: Let's proceed with the Preliminary and
12 Bail Hearing in Case 12-1627. AUSA López, you may call your
13 witnesses. How many witnesses do you have?

14 MR. LOPEZ-SOLTERO: One, Your Honor.

15 THE COURT: Alright, you may proceed.

16 MR. LOPEZ-SOLTERO: Thank you, Your Honor. The
17 Government calls Special Agent Donny Albino.

18 THE COURT: Just for clarity for the record, Brett,
19 are you fluent in the English language?

20 DEFENDANT: I'm fluent in English, not legalese,
21 but in English.

22 THE COURT: Excuse me?

23 DEFENDANT: Not legalese, but English.

24 THE COURT: Well, sir, as I said, that's one of the
25 reasons why it's useful for you to have an attorney. Because,

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1 if they're legal terms, if they're technical, legal terms, an
2 attorney can certainly help you to explain technical, legal
3 terms.

4 Would you like to have the services of an attorney
5 to explain the legal terms?

6 DEFENDANT: As standby Counsel.

7 THE COURT: Well, as I said, would you like an
8 attorney to represent you, "yes" or "no"?

9 DEFENDANT: The answer is no.

10 THE COURT: Alright, well, then the record shall
11 reflect that the Defendant is fluent in the English language,
12 and, therefore, does not need the services of an Interpreter.
13 Let's place the witness under oath.

19 WITNESS: Yes.

20 THE COURT: Sir, could you please state your full
21 name for the record?

22 WITNESS: Yes, my name is Special Agent Donny
23 Albino, from Homeland Security Investigations.

DIRECT EXAMINATION

25 BY MR. LÓPEZ-SOLTERO:

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1 Q. And, sir, good morning.

2 A. Good morning, sir.

3 Q. Can you tell the Court, in brief terms, what are your
4 duties as a Special Agent for Homeland Investigations?

5 A. Yeah, as a Special Agent, I perform different duties, but
6 one of them is to enforce Title 18, U.S.C. 2250, which is the
7 one we are here for today.

8 Q. Which act is that?

9 A. That's the act that says that people need to register...
10 sex offenders...

11 Q. Sex offenders need to register with whom?

12 A. With any states that they go or any jurisdiction once
13 they move.

14 Q. If they move around the nation, they have to register?

15 A. That is correct. That also includes the territories of
16 the United States, which is Puerto Rico.

17 Q. And, you deal with that act as part of your duties as a
18 Special Agent?

19 A. Correct.

20 Q. Sir, do you remember, on December 28, 2012, swearing to
21 an Affidavit for a Criminal Complaint?

22 A. Yes, that's correct, sir.

23 Q. Before the Magistrate Judge here?

24 A. Yes, sir.

25 Q. Sir, do you remember the context of that Affidavit?

1 A. I do.

2 Q. Sir, do you stand by the contents of that Affidavit?

3 A. Correct. It stated that, on or about December 27th, we
4 encountered Mr. Brett, known as "Son of Isaac", and he was not
5 registered with the Puerto Rico authorities for being a sex
6 offender.

7 Q. Okay, now, as part of your investigation, were you able
8 to determine where was he convicted of a sex offense?

9 A. Correct, we have several documents that show Arizona, as
10 well as New York. In addition, an active Arrest Warrant in the
11 State of New Mexico for the same charges, and Puerto Rico, of
12 course, with the new charges today.

13 Q. When you mention "New Mexico" and "the same charges", are
14 those sex offense charges or failure to register?

15 A. Failure to register, sir.

16 Q. Now, where was Mr. Brett detained?

17 A. He was detained in Lares, Puerto Rico.

18 Q. Do you remember where exactly?

19 A. Correct, yeah, that's *Barrio Castañer*, Road 431.

20 Q. Was he arrested in a house, in a business?

21 A. In his residence.

22 Q. In his residence?

23 A. In his apartment.

24 Q. He was living there?

25 A. Correct.

1 Q. And, how do you know he was living there?

2 A. Actually, we knew he was living there because, when we
3 received the information about Mr. Brett... you want me to
4 start all over of how we encountered the subject?

5 Q. Yes.

6 A. Okay, on or about December 21st, Mr. Brett showed at the
7 Puerto Rico Department of Transportation requesting an I.D., a
8 Puerto Rico I.D. identification.

9 And, when the people of the Department of
10 Transportation requested Mr. Brett some source of
11 identification, such as Social Security number and other
12 documents, he provided some documents that he considered are
13 legal to the Department of Transportation, but they didn't
14 accept it because it's not the documents that most likely any
15 state accepts for issuing I.D.'s.

16 When that happened, according to what one of the
17 witnesses over there, in the Department of Transportation,
18 stated is that they had like a little discussion related to
19 the I.D. issue, and they eventually contacted the State
20 Police.

21 The State Police contacted us to find out who was
22 Mr. Brett. When we start running several databases, we
23 encountered that, according to the databases, his name is Mr.
24 Brett Jones. There is his photo and the registration in
25 other... in the States as a sex offender.

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1 Eventually, we started looking in the NCIC System,
2 which is handled by the FBI, and we encountered that Mr. Brett
3 has an active Arrest Warrant in New Mexico.

4 Furthermore, we also did our research in the State
5 level, and, after reaching all the thirteen regions (phonetic)
6 in Puerto Rico through the main department, Puerto Rico Police
7 Department, in San Juan, that they have a main office there,
8 we encountered that he was not registered in Puerto Rico.

9 In addition, we went further, and we started
10 interviewing several witnesses, including the person that
11 rented Mr. Jones a residence. And, according to the person
12 that is renting, stated that Mr. Brett had been living in
13 Puerto Rico since July, most likely since July of 2012, plenty
14 of time to...

15 Q. How were you able to determine that?

16 A. There's a contract that the owner of the residence gave
17 us, which stated... and it's singed by him... saying that
18 he's, since July of 2012, been living in Puerto Rico.

19 Q. So, it stated "July, 2012"?

20 A. Correct.

21 Q. Now, sir...

22 A. And, finally... just to... real quick... and, once we
23 clarified all that, then we went and arrested Mr. Brett for
24 the violation.

25 Q. During the arrest, did he make any statement?

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1 A. No, he was very gentle with us and respectful at all
2 times.

3 Q. I'm going to show you a document. It's in Spanish.

4 MR. LÓPEZ-SOLTERO: Can I approach the Witness?

5 THE COURT: Yes.

6 **DIRECT EXAMINATION**

7 BY MR. LÓPEZ-SOLTERO:

8 Q. I'm showing you a document that you brought to me this
9 morning.

10 A. Correct.

11 Q. Can you identify that document, sir?

12 A. That's correct, sir.

13 Q. Is that an official document?

14 A. That is our official document for the Puerto Rico Police
15 Department.

16 Q. And, its got the seal of the Police of Puerto Rico?

17 A. That is correct, sir.

18 Q. And, what is the date of that document?

19 A. The date says "January 4, 2012".

20 Q. January 4, 2012.

21 MR. LÓPEZ-SOLTERO: We ask the Court to mark that
22 document as Exhibit 1?

23 THE COURT: Any objection?

24 DEFENDANT: Only the objection as that being a
25 surprise document. The may have had it seen the 4th. I

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1 should've had it shortly thereafter. I've never seen that
2 document before.

3 THE COURT: Well, on those grounds, overruled.

4 Admitted as Exhibit 1.

5 (Whereupon,

6 the above-mentioned document was admitted into
7 evidence as Government Exhibit 1.)

8 BY MR. LÓPEZ-SOLTERO:

9 Q. Can you tell the Court what that document is?

10 A. Yes, this is information of... a Sex Offender Registry
11 information document.

12 Q. Okay, regarding who?

13 A. Regarding Mr. Brett.

14 Q. Okay, and...

15 DEFENDANT: I object to that. That is regarding
16 Brett Jones-Theophilous. It is not regarding Brett Son of
17 Isaac.

18 THE COURT: Sir, you are free to conduct Cross
19 Examination, and confront the witness as to any
20 inconsistencies, if you believe that there are any as to his
21 testimony. And, as to that regard, you'll be given that
22 opportunity.

23 And, I will also take advantage of this opportunity
24 to remind you that, throughout this... both the Preliminary
25 and Bail Hearing... you do have the right to remain silent,

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1 and anything that you say can and may be used against you by
2 the Government of the United States.

3 Very well, you may go ahead and answer that
4 question.

5 MR. LÓPEZ-SOLTERO: Thank you, Your Honor.

6 A. Yes.

7 BY MR. LÓPEZ-SOLTERO:

8 Q. Now, that document has a part in red. Can you tell the
9 Court what that says?

10 A. Okay, it says, "At the moment of looking in our system,
11 Mr.

12 Q. That's January 4th?

13 A. Oh, I'm sorry, yeah, correct. Sorry. I thought you were
14 asking me the...

15 Q. No, no, no the red part. But, when they say "At the time
16 we were looking at our records...", that means January 4th?

17 A. Yes, correct, correct, yes.

18 Q. Go ahead. What does it say?

19 A. Well, yeah, it says, "At the moment of looking in our
20 system, Mr. Jones does not show as a registered sex offender
21 in Puerto Rico".

22 Q. So, as of January 4th, Mr. Brett hadn't registered as a
23 sex offender, in Puerto Rico, yet?

24 A. That is correct, sir.

25 LÓPEZ-SOLTERO: That would be all, Your Honor.

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1 THE COURT: Before we allow for Cross Examination,
2 sir, throughout this testimony, I've heard you use the term
3 "Mr. Brett". Are you using "Brett" as a last name or as a
4 first name?

5 A. Well, I'm actually using Brett as respect for the Court,
6 that that's the name that he wanted to be called. That's why
7 I'm calling him "Mr. Brett".

8 THE COURT: Well, but I'm... but, for purposes of
9 clarity of your testimony...

10 A. Of Brett Jones.

11 THE COURT: ... we need to have the full name of
12 the individual that you have indicated that you detained on
13 the 27th of December of the year 2012. What would be the full
14 name?

15 A. Okay, my apologies. Mr. Brett Jones-Theophilious.

16 THE COURT: Okay. And, sir, do you see this person
17 in this Courtroom here today?

18 A. That is correct, sir.

19 THE COURT: If you see him in this Court, can you
20 point where he is?

21 A. He's on my right side, at the Defense table.

22 THE COURT: Okay.

23 DEFENDANT: I thought that that would have been the
24 job for the prosecution, Your Honor.

25 THE COURT: Your Witness for Cross Examination,

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1 sir. You may please stand right behind the podium.

2 DEFENDANT: I'm shackled, so this will do.

3 THE COURT: Sir, please, stand behind the podium
4 for purposes of conducting the Cross Examination.

5 DEFENDANT: I haven't had any medication in the
6 last four days. My kidneys are causing me a lot of problems. I
7 haven't had any medical attention for them.

8 Please, understand the amount of pain that I'm in
9 right now. It is the same amount of pain I've been in for a
10 long time. I've already talked to the officers about this.

11 THE COURT: Well, if you don't feel in conditions
12 to conduct the Cross Examination, we can postpone this for
13 another day. Would you like this hearing to be postponed?

14 DEFENDANT: Standing is the issue.

15 THE COURT: Alright, fair enough.

16 DEFENDANT: Sitting is not a problem.

17 THE COURT: Alright, if you're sitting, then you
18 are not in pain, sir?

19 DEFENDANT: I'm in pain, but I can handle Cross
20 Examination while sitting down.

21 THE COURT: Alright, would you...

22 DEFENDANT: But, I am shackled. It allows me to be
23 able to move through this paperwork, and still do the Cross
24 Examination without any hindrance.

25 THE COURT: Would you like this hearing to be

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1 conducted another day?

2 DEFENDANT: No waiving of anytime will I ever
3 submit to.

4 THE COURT: Alright, fair enough. Sir, taking into
5 account that the Defendant has indicated that, due to his
6 health conditions, he feels in less pain, I will allow you to
7 then remain sitting down for Cross Examination.

8 You may proceed, sir. Sir, have you understood the
9 warnings that I have given you, that you have the right to
10 remain silent? Do you understand that?

11 DEFENDANT: If I'm sitting here as a Defendant
12 then, yes, I completely understand that. But, as I stated
13 before, I am here in Special Appearance, not General
14 Appearance.

15 THE COURT: Sir, do you understand that nobody can
16 force you to testify?

17 DEFENDANT: I am never going to be testifying.

18 THE COURT: Do you understand, sir, that you are
19 not required to testify? Do you understand that?

20 DEFENDANT: I mean you must understand that I've
21 answered your question when I say that I will never testify.
22 That should indicate that I clearly understand.

23 THE COURT: Sir, do you understand that anything
24 that you say the Government can use against you?

25 DEFENDANT: Cannot, because I am not here. I'm here

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1 in Special Appearance representing the Defendant. I've made
2 that quite clear on several occasions.

3 THE COURT: Well, I'm warning you and I'm advising
4 you that the Government can and may use any admission or
5 statement that you say against you in this case.

6 DEFENDANT: Your warning is noted.

7 THE COURT: Go ahead ask your questions.

8 **CROSS EXAMINATION**

9 BY DEFENDANT:

10 Q. Could you please state for me again your name, if you do
11 not mind, and your position with the Homeland Security
12 Investigations Department?

13 A. Yes, sir. My name is Special Agent Donny Albino, assigned
14 to the Homeland Security Investigations.

15 Q. Okay, Mr. Albino, apparently you have brought forth an
16 Affidavit...

17 DEFENDANT: Excuse me, there is a question I need
18 to ask the Court. One moment.

19 (PAUSE)

20 DEFENDANT: Has the Court received the presentment
21 rebutting the Affidavit that I sent on the 4th of January?

22 THE COURT: I'm not aware of any document, aside
23 from the Criminal Complaint that has been found in this case.
24 Ana, do you we have anything on record?

25 COURTROOM DEPUTY: No, sir.

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1 THE COURT: No. So...

2 DEFENDANT: Well, according to the Supreme Court, a
3 rebutted Affidavit stands as truth in law. I sent a rebuttal
4 of the Affidavit on January 4th.

5 Because I am not allowed to copies or access to any
6 legal work, several individuals lent me paper, stamps, and
7 some writing utensil, and I did send a rebuttal.

8 I will make sure that another one is done before the
9 end of this week...

10 THE COURT: Duly noted.

11 DEFENDANT: ... and so that I get that to the
12 Court.

13 THE COURT: Duly noted.

14 BY DEFENDANT:

15 Q. The charge here that you... I'm sorry, back to you.

16 A. Yes, sir.

17 Q. The charge here that you indicated was Title 18, Code
18 2250?

19 A. That's correct, sir.

20 Q. Verbatim, can you please indicate what are the
21 requirements under that particular code?

22 A. Oh, yes, the person needs to be a sex offender...

23 LÓPEZ-SOLTERO: Objection, Your Honor. The Court
24 knows...

25 THE COURT: Sustained.

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1 DEFENDANT: He says that he is an expert, Your
2 Honor, in the field that he works in. That was the first
3 question I asked.

4 THE COURT: Sir, you're entitled to ask factual
5 questions, not legal questions. Go ahead, next question.

6 BY DEFENDANT:

7 Q. Under the Affidavit that you provided... and it mentions
8 the Code... Civil Section 182250, you mentioned that you had
9 no indication as to the state where the offenses alleged took
10 place originally.

11 A. Correcting. It's not Civil. It's Criminal, first of all.
12 The charges are Criminal, not Civil. Let me clarify that
13 first. Okay, can you repeat again the question, sir?

14 Q. You indicated, in your Affidavit, that you have no
15 knowledge as to where the original offense took place. That
16 your knowledge was New York State. Is that correct?

17 A. According to the document that you see in there, the
18 registration appears to be in New York. Eventually, we found
19 out that it was in Arizona, and eventually he was arrested in
20 New York. That's what we got.

21 Q. Okay.

22 A. Within the course of the investigation.

23 Q. When you gave testimony earlier, you stated that it was
24 "New York". I actually took note of that, when you stated
25 that.

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1 A. Actually I said "Arizona" and "New York". I stated both
2 places, and it can be reviewed.

3 DEFENDANT: Is it possible that we can have that
4 part of the record re-read, Your Honor?

5 THE COURT: I'll evaluate any potential
6 inconsistencies between the Direct and Cross Examination for
7 purposes of reaching my Probable Cause determination. You may
8 proceed.

9 DEFENDANT: He signed an Affidavit to these effects
10 that I'm mentioning to you.

11 BY DEFENDANT:

12 Q. When did you become aware that the arresting state
13 originally was Arizona?

14 A. During the course of the investigation.

15 Q. Okay, approximately?

16 A. To give an answer to you... I can't give you an exact
17 date. I have been dealing with the case the whole week. I
18 cannot give you an exact date.

19 Q. Was it during the arrest?

20 A. Actually, during the arrest, we confirmed with New Mexico
21 that you (sic) have an Arrest Warrant for the same offenses
22 that we are... or that the USA is presenting...

23 Q. Yes, but that's not the question that was asked. I need
24 the answer to the question.

25 A. Okay, but, in order to get you there, I need to...

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1 Q. No, just please answer the question directly.

2 A. Okay, can you repeat it again, sir?

3 Q. You indicated in your report... let's... so that we don't
4 have a back and forth here, because I'm not looking for that,
5 let's move on to another question.

6 A. Okay.

7 Q. You mentioned that you received information from the
8 Department of Motor Vehicles through the State Police of
9 Puerto Rico, "yes" or "no"?

10 A. That is correct.

11 Q. Okay, the information that you received indicated that,
12 if I...

13 DEFENDANT: One moment while he reviews.

14 (PAUSE)

15 DEFENDANT: Well, as a matter of fact, I'm very
16 familiar with both documents. The apostle (phonetic) from the
17 Secretary for the State of Puerto Rico that were Affidavits.

18 LÓPEZ-SOLTERO: Your Honor, we don't know if the
19 Defendant is going to try to introduce those documents.

20 THE COURT: No, we'll see. I don't know yet either.

21 DEFENDANT: No, the official ones are at home,
22 locked away.

23 THE COURT: Alright, you may ask your question.

24 DEFENDANT: I'm just bringing this to the
25 gentleman's attention as to the document that was presented to

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1 him at the time by the State Police.

2 BY DEFENDANT:

3 Q. When you received those documents...

4 A. Correction. It was not the State Police, the Department
5 of Transportation.

6 Q. The Department of Transportation who contacted you
7 through the State Police?

8 A. That's correct.

9 Q. Okay. Do the documents I just handed you appear to be not
10 exact, but copies of what you received from the Department of
11 Transportation?

12 A. Appears to be.

13 DEFENDANT: What he has in his hand, Your Honor,
14 is...

15 THE COURT: No, don't. You don't... it's for the
16 witness to testify as to what, if anything, he has in his
17 hands.

18 BY DEFENDANT:

19 Q. Could you please explain to the Court...

20 THE COURT: Now, if these... these documents, are
21 they in the Spanish language or in the English language?

22 DEFENDANT: They are in the English and Spanish.

23 THE COURT: They are in the English language.

24 DEFENDANT: The apostle from the Secretary of State
25 is in both English and Spanish.

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1 MR. LÓPEZ-SOLTERO: Again, Your Honor...

2 THE COURT: Do you have any objection that these
3 documents be marked as an Exhibit?

4 LÓPEZ-SOLTERO: Of course, Your Honor. Those
5 documents are not official. I don't know where they come from.

6 THE COURT: Well, let's see what the witness says
7 about those documents. Sir, do you recognize those documents?

8 A. Appears to be the ones I received from the Department of
9 Transportation, copies of it.

10 DEFENDANT: They are not being introduced as
11 Exhibits, only to documents, certain information that
12 contradicts the Affidavit.

13 THE COURT: Well, if they're not introduced as
14 Exhibits, then let's remove them from the Witness' table, and
15 you may ask your next question. Go ahead.

16 BY DEFENDANT:

17 Q. Within the documents you received from the State Police,
18 did you maintain a copy of those documents?

19 A. That is correct.

20 Q. Did you bring the file with you here today?

21 A. Oh, yes, it's part of the Discovery that I pre-matured
22 (sic), that the AUSA office will provide to you.

23 Q. So, the Prosecuting Attorney has a copy of these
24 documents in the file?

25 A. On the table, sir.

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1 Q. Thank you. Within the apostle for the Secretary of State,
2 did you, by any chance, come across an address for Brett Son
3 of Isaac?

4 LÓPEZ-SOLTERO: Objection, Your Honor. He's
5 getting into the contents of the document.

6 DEFENDANT: But, he's already indicated that he's
7 given Counsel a copy of the very same documents.

8 THE COURT: Well, I understand that there is some
9 hearsay involved here. But, in light of the fact that it's a
10 Preliminary Hearing, I will allow some leeway, and I will
11 allow the Defendant to ask this question in Cross Examination.
12 So, go ahead. Question stands. Go ahead and answer the
13 question.

14 BY DEFENDANT:

15 Q. Did you happen to notice the address that was located
16 within the document?

17 A. Yes, somewhere it might say something about Brett Son of
18 Isaac, correct.

19 Q. Yes, but the address for Puerto Rico, Lares?

20 A. Yeah, I saw it in there.

21 Q. Okay, in your Affidavit, you mentioned that there was an
22 attempt to evade. Am I correct?

23 A. That's what it says, yes. That's what it is.

24 Q. How did you define, within your Affidavit, the attempt to
25 evade?

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1 A. Well, it can be defined in too many ways. But, since July
2 until now, plenty of time to register. I mean I don't know if
3 that can be considered trying to evade registry.

4 Q. Well, you were the one who filed the Complaint. You did
5 the investigation.

6 A. Right, and I'm answering you what you asked me.

7 Q. Well, no, no, no, you...

8 A. And, that's my final answer.

9 Q. Okay. You mentioned... and I will state again... that
10 there was an attempt to evade.

11 A. Correct, and I repeat to you...

12 Q. ... and, according to what you just stated, the attempt
13 to evade was as a result of not registering.

14 A. That's correct.

15 Q. Did you happen to contact the Castañer Police Department
16 during your investigation?

17 A. Oh, yes, I did, I did. I interviewed the Sergeant that
18 actually received you at the facilities.

19 Q. Received me?

20 A. Yeah, the day that you put a Complaint on something like
21 that, at the police department. You showed up that day over
22 there complaining about a police officer that stopped you or
23 something happened in a accident. Yeah, I interviewed them,
24 actually three witnesses.

25 Q. One moment. Are you sure we are speaking about the same

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1 police department?

2 A. Correct, the one in Castañer, the only one Lares, down in
3 the Castañer.

4 Q. Okay, however, let's... I'm thinking if there's a
5 misunderstanding of Castañer Police Department and the Lares
6 Police Department.

7 A. No, actually I went to Castañer Police Department, the
8 one... the small police station in Castañer, Lares. It's the
9 only one in the small city.

10 Q. Okay, and your indicating that the Sergeant...

11 A. Actually, I interviewed three people there.

12 Q. And, they all stated that I appeared at that location?

13 A. Well, they said that you were involved some kind of an
14 accident, something like that. That you went to the facilities
15 complaining that because they didn't talked to you in Spanish
16 or something like that... I'm sorry... that they didn't talk
17 to you in English.

18 That you were kind of feeling uncomfortable because
19 of the English language, no Spanish knowledge, and all that.

20 Q. Okay, well, thank you for...

21 A. And, but, according to...

22 Q. Thank you, thank you, for that information.

23 A. Oh, you're welcome, sir.

24 Q. Let's get back to the Cross Examination, and we'll come
25 across the Castañer Police Department in just a moment.

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1 A. Okay, yes, sir.

2 Q. Did you have firsthand knowledge of the events that
3 you've listed in your Affidavit?

4 A. Yes, that's why I presented the Affidavit.

5 Q. One second, one second. Just, for right now, "yes" or
6 "no". I would appreciate that.

7 A. Oh, yes, yes.

8 Q. How did the Defendant come across your Agency's
9 attention? You said that it was the Department of Motor
10 Vehicles, were Brett Son of Isaac was seeking to acquire
11 identification, and he provided several documentation for
12 identification.

13 They contacted the State Police. How did your
14 offices get involved when it would normally be the United
15 States Marshals who would handle such a situation?

16 A. To be honest with you, sometimes we receive calls from
17 the State Police for different things. So, in this one, they
18 called us. That's all I can tell.

19 Q. Thank you. Why not, since you had the address both in New
20 Mexico and Puerto Rico, send some sort of notification or call
21 to let the individual whom you're investigating know that
22 there's an investigation?

23 LÓPEZ-SOLTERO: Your Honor, I didn't understand the
24 question.

25 A. Yeah, can you rephrase that because I'm lost?

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1 DEFENDANT: The Supreme Court...

2 THE COURT: It's irrelevant. Next question.

3 DEFENDANT: The Supreme Court, in several cases,
4 had made it quite clear that the right for an individual to be
5 notified prior to being subjected to any deprivation goes back
6 to medieval times, and it is a due process right. So, I can't
7 see how a right could be irrelevant.

8 THE COURT: Noted. Overruled. Next question, sir.

9 The issue before the Court is not whether you had the right to
10 be notified of an investigation.

11 The issue is whether there is Probable Cause that
12 you failed to register as a sex offender here, in Puerto Rico.

13 DEFENDANT: The issue...

14 THE COURT: Next question, sir.

15 DEFENDANT: ... the issue I would beg this Court to
16 understand is the Affidavit. That's what I'm questioning him
17 in regards to.

18 He is testifying that this is a true and accurate
19 statement. He is stating that he had no knowledge of the
20 whereabouts. That I, and the Defendant, made an attempt to
21 evade, to hide, to run.

22 What I'm trying to clarify for this record, public
23 record, is that not only did they have an address, they had a
24 telephone number, they had a location in both states...

25 THE COURT: Sir...

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1 DEFENDANT: ... and that there had been
2 communication with several Government offices.

3 THE COURT: Sir, the charge is not only failure to
4 register, knowingly failing to register with the Common Wealth
5 of Puerto Rico Authority, as required by the Sex Offender
6 Registration and Notification Act.

7 This is not a Probable Cause determination on
8 attempt to evade. This is a Probable... whether... the issue
9 is whether there is Probable Cause that you knowingly failed
10 to register. Next question.

11 DEFENDANT: I don't wish to try the Court's
12 patience at all, but we're also considering an issue of bail
13 today. And, so that's why the question is being asked the way
14 it is.

15 THE COURT: I think you have a fair point as to
16 that. So, I think that, as to that matter, I think that, if
17 you wish to ask questions as to attempt to evade, not so much
18 in the interest of Probable Cause, but because it's relevant
19 to bail, I will allow those questions because I think that you
20 have a fair point as to that particular concern.

21 DEFENDANT: I will assure you that the question was
22 only in line with that thought. Each of the questions I have
23 for him are only along that line. I am not trying to defend
24 the charges at all.

25 THE COURT: Alright, if you... well, are you not

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1 contesting the charges then? Because, if that's the case, then
2 that will conclude the Preliminary Hearing. I will make a
3 finding of Probable Cause at this moment.

4 DEFENDANT: What I will do...

5 THE COURT: Are you contesting the charges or
6 you're not contesting the charges?

7 DEFENDANT: ... is I will tell the Court, as I did
8 in the rebuttal of the Affidavit, I plead guilty to the facts
9 of this matter, but we have not determined the facts yet.

10 The Affidavit would stand as truth until rebutted.
11 And, so, as I mentioned, I sent a rebuttal of that so that we
12 can only entertain the facts.

13 I will have a copy of the original apostle sent to
14 this Court so that those informations would be introduced to
15 this Court, and it will have to be rebutted.

16 THE COURT: Well, sir, I gave an opportunity to ask
17 for a continuance of this hearing, and you refused to do that.
18 So, therefore, I will not delay the proceedings any further as
19 to Probable Cause.

20 If you have any additional question for this
21 Witness, please do so.

22 DEFENDANT: Yes, I do.

23 THE COURT: Go ahead.

24 DEFENDANT: If the Court would give me just one
25 moment.

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1 THE COURT: Alright, go ahead.

2 PAUSE

3 BY DEFENDANT:

4 Q. Okay, sorry for that, sir. I'm ready. I apologize.

5 A. Take your time.

6 Q. Now, as mentioned before, the original charges occurred
7 in the State of Arizona, and the State of Arizona... I don't
8 know whether or not you have knowledge as to the actual
9 charges.

10 According to those charges, from your investigation,
11 what was the age of the individuals who were the alleged
12 victims?

13 A. I don't think that... I can answer you that, but I don't
14 think that's relevant to the charges that the...

15 Q. We'll let the...

16 LOPEZ-SOLTERO: Your Honor, that would be
17 irrelevant, as to the age of the victims.

18 THE COURT: Sustained, sustained. We're not here to
19 determine the facts of the underlying original sex offender
20 conviction. We are here to determine failure to register.

21 DEFENDANT: I'm not trying to uncover the original
22 facts. That's is for the State of Arizona, not for the State
23 of Puerto Rico.

24 THE COURT: Next question.

25 DEFENDANT: The question was designed for a

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1 particular reason. May I tell you the reason?

2 THE COURT: Yes, yes, you may.

3 DEFENDANT: He put, in his Affidavit, certain
4 information attesting to the truthful nature of it. If the
5 Witness on the stand has put forth, before this Court, an
6 Affidavit that is not truthful, then it cannot be introduced
7 as evidence in this matter.

8 THE COURT: Sir, if there is a particular area that
9 you believe that there is a contradiction, you can go ahead
10 and pose the question. Alright?

11 DEFENDANT: I'm trying. I really am trying.

12 THE COURT: Alright, well, go ahead and ask your
13 next question. But, we're not here to determine the underlying
14 facts of the original conviction. Go ahead.

15 DEFENDANT: No, just the accuracy of the Affidavit
16 is what I'm focusing on.

17 THE COURT: Go ahead.

18 BY DEFENDANT:

19 Q. As a matter of fact, do you have a copy of the Affidavit
20 that you signed before you?

21 A. Not before me.

22 DEFENDANT: Is it possible... because I need to
23 read off from the one I have here... if we can get him a copy
24 of the Affidavit?

25 THE COURT: You can go ahead and read to the

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1 Witness the pertinent part.

2 MR. LÓPEZ-SOLTERO: He can read it.

3 THE COURT: You can go ahead and read out loud the
4 pertinent part, if you wish to address that.

5 BY DEFENDANT:

6 Q. You placed, in the very last paragraph, that, based upon
7 your training and experience, the facts concerning this
8 investigation you respectfully believe are sufficient for
9 Probable Cause.

10 A. That's correct.

11 Q. You then swore and ascribed to this information as being
12 truthful, and actual... factual.

13 A. That's correct, sir.

14 DEFENDANT: So, for the nature of Probable Cause, I
15 do believe that I have the right to cross-examine him in
16 regards to his Affidavit.

17 THE COURT: What's your question, sir? I'm waiting
18 to hear one. Nobody has deprived you of the right to cross-
19 examine the Agent as to his Affidavit. But, your questions
20 have to be relevant. Go ahead. Next question.

21 BY DEFENDANT:

22 Q. In regards with the issue with the Warrant in New Mexico,
23 you said it was for the exact same charge here.

24 A. According to New Mexico, it is for failure to register as
25 a sex offender.

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1 Q. From what I gather from the Pre-Sentence Report,
2 apparently they're not claiming a failure. They're claiming
3 that... for violation of a Court Order.

4 A. The documents that I have or that I provided to the
5 United States Government doesn't state that.

6 LÓPEZ-SOLTERO: Your Honor, the Agent has no access
7 to the Pre-Trial Report.

8 THE COURT: Well, but let's... let the Agent do the
9 testifying. Alright.

10 BY DEFENDANT:

11 Q. But, you did check with the State of New Mexico.

12 A. That is correct, sir.

13 Q. And, they told you it was a failure issue?

14 A. They sent me a copy of an Arrest Warrant, an active
15 Arrest Warrant, for failure to register as a sex offender.
16 That's what they provided me.

17 Q. Has that been provided to Counsel?

18 A. That is correct, sir.

19 Q. Thank you.

20 A. That is correct.

21 Q. The Arrest Warrant in New Mexico, is it extraditable?

22 A. It's not... I'll answer you the question, but it's not...
23 I don't think it's relevant to the charges in Puerto Rico.

24 LÓPEZ-SOLTERO: Objection, Your Honor.

25 THE COURT: Sustained.

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1 DEFENDANT: Well, we're talking about bail here
2 today, Your Honor. And, the fact that as to whether or not
3 there's an outstanding Warrant in a different state would
4 actually interfere with someone getting bail.

5 And, so, because that particular Warrant is not
6 extraditable, then it does pose relevance for the Bail
7 Hearing.

8 THE COURT: There is... we're not dealing here with
9 a foreign country. This is New Mexico. So, we don't... we're
10 not talking about extradition in the sense that we have to
11 deal in the traditional manner of dealing with foreign
12 countries. Alright?

13 The question is whether there is a valid outstanding
14 Arrest Warrant. And, sir... Agent... is that Warrant... the
15 Warrant that you received from New Mexico, is it outstanding
16 as of right now?

17 A. That is correct, sir.

18 THE COURT: Alright, next question.

19 DEFENDANT: I would like to correct that as for the
20 record. The actual issue in New Mexico has been removed from
21 that jurisdiction to Federal District Court, which makes the
22 Warrant in New Mexico moot.

23 As a matter of fact, the Petition for that going to
24 Federal Court is right here, and I'm just waiting to get
25 copies so I can follow through on the notice that's been sent

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1 to New Mexico.

2 THE COURT: If, during the Bail Hearing, you wish
3 to present any document that's relevant to that regard, I'll
4 be happy to evaluate it.

5 DEFENDANT: Okay, what are we doing? Give me one
6 moment. I just need to have copies of this made so that the
7 Court can get a copy, the Defense Counsel... I mean not
8 Defense Counsel...

9 THE COURT: Is this an Exhibit that you wish to
10 introduce?

11 DEFENDANT: No, this is actually a presentment to
12 the Court in regards to this matter.

13 THE COURT: Well, we can wait then for the Bail
14 Hearing.

15 DEFENDANT: Okay, alright.

16 THE COURT: And, then feel free to bring, during
17 the Bail Hearing, any documents that you wish to bring to my
18 attention...

19 DEFENDANT: I got you.

20 THE COURT: ... that are relevant for the matter of
21 bail. That's fine. You know, we can evaluate that.

22 DEFENDANT: Okay.

23 THE COURT: But, if there's a document that you
24 wish to introduce as a Exhibit, then those documents should be
25 presented to the Witness.

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1 DEFENDANT: Actually, I understand there'll be no
2 introduction of Exhibits on my part.

3 THE COURT: Alright.

4 BY DEFENDANT:

5 Q. Alright, the next question for you, sir.

6 A. Yes, sir.

7 Q. When you arrived at the home of Lares, the location, the
8 rented property in Lares...

9 A. Correct.

10 Q. ... you arrived there at what time during the day?

11 A. It was kind of in the afternoon hours.

12 Q. And, you had communication with several of the neighbors?

13 A. That is correct, sir.

14 Q. When I drove to the location, and got out of... exited
15 the automobile, your officers asked who was I. How did I
16 identify myself to you?

17 A. I believe Brett Son of Isaac.

18 Q. Okay, and the identification presented to you at that
19 time, what was the name on that identification?

20 A. Brett Son of Isaac.

21 Q. At what time during the detainment did you determine that
22 Brett Son of Isaac was not Brett Son of Isaac?

23 A. I didn't determine that.

24 Q. Well, your document state that.

25 A. I just observed it. I looked at you, I confronted the

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1 photos that I had from the sex offender list in the United
2 States, and, as an a/k/a, it says different names, a whole
3 bunch of different names, plus the real name, Brett Jones.

4 Q. Okay.

5 A. We found out your I.D., and we have copies of it from the
6 State of California in your personal belongings.

7 Q. My I.D.?

8 A. That is correct, provided by one of your friends in
9 Lares.

10 LÓPEZ-SOLTERO: Your Honor, if I may. I have to run
11 to Judge Fusté's Courtroom. I had a hearing set for 9:32 A.M.
12 AUSA Special Assistant Lomba is going to cover the rest fo the
13 hearing for me.

14 THE COURT: Alright.

15 LÓPEZ-SOLTERO: If that's fine with the Court.

16 THE COURT: That's fine.

17 MR. LÓPEZ-SOLTERO: Thank you, Your Honor.

18 THE COURT: That's fine. You're excused.

19 DEFENDANT: And, there's only about four more
20 questions, so it will be one moment.

21 A. Oh, yeah, that's okay.

22 DEFENDANT: One moment, so that there won't be a
23 disturbance while we wait for him.

24 WITNESS: That's okay, sir. We'll wait.

25 (PAUSE)

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1 BY DEFENDANT:

2 Q. You said that you had a copy of a California
3 identification?

4 A. That is correct. It's in the Discovery package, as well
5 as your Social Security, from your belongings that you
6 provided to one of your friends, Felix, or they call him... I
7 think it's...

8 Q. 'Uva'?

9 A. 'Uva', correct.

10 Q. Interesting.

11 A. Yes.

12 Q. And, you received these documents from a friend?

13 A. That is correct... no, we don't have them in our
14 belongings. We just took copies and photos of it.

15 And, it says your name, it has some... several
16 credit cards with your name, Brett Jones, license, I believe,
17 and, yes, Social Security, a whole bunch of documents, and all
18 of them say "Brett Jones".

19 Q. They all say "Brett Jones". And, you're saying that those
20 are mine?

21 A. Well, 'Uva'...

22 DEFENDANT: I most certainly have to object to
23 that.

24 A. ... said that it was his.

25 DEFENDANT: I most certainly have to object to

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1 that, not only once the items that he's claiming...

2 THE COURT: Well, sir, you're testifying now.

3 DEFENDANT: No.

4 THE COURT: You see... well, you're... you can ask
5 questions... you can ask questions. This is Cross Examination.

6 DEFENDANT: Exactly. But, he is testifying, under
7 oath, that those documents belong to myself.

8 THE COURT: Well, sir, you are not here to argue
9 with the Witness.

10 DEFENDANT: Exactly.

11 THE COURT: You're here to ask questions to the
12 Witness. So, if you want to ask him how does he know that
13 those identifications that he received are yours, you are free
14 to ask him that question.

15 DEFENDANT: That is fine. The only thing I was
16 doing was letting the Court know that there was an objection
17 to what was being said. That's all.

18 THE COURT: Keep going.

19 BY DEFENDANT:

20 Q. Where was I when you received those documents that you
21 claim were mine?

22 A. Under arrest.

23 Q. Where?

24 A. In the Metropolitan Detention Center...

25 Q. In the Metropolitan. So...

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1 A. ... Guaynabo, Puerto Rico.

2 Q. ... that would mean that you did a follow-up
3 investigation?

4 A. Correct.

5 Q. Okay, when you went back and did your follow-up
6 investigation, did you obtain those items from the residence?

7 A. I obtained them from the guy that you named 'Uva'. He's
8 like a neighbor or friend of yours, and he said that "Here's
9 all Mr. Brett's documents that he left us.", with your drivers
10 license or... well, it has your photo so...

11 Q. That's interesting.

12 A. It has your photo, several credit cards with "Brett
13 Jones" on it. Everything says "Brett Jones" ... everywhere.

14 In addition, I think there was a copy of the legal
15 document that you carry with "Brett Son of Isaac", and several
16 documents with "Brett Jones", "Brett Jones", "Brett Jones-
17 Theophilious", "Brett Jones-Theophilious" everywhere, so...
18 with your photo in the driver's license.

19 Q. And, those were mine?

20 A. Well, according to the identification, it has your photo.

21 Q. No, no, no, I'm asking a specific question.

22 A. Oh, they're yours, yeah. That's why 'Uva' said that
23 they're yours.

24 Q. They were mine? You found them in my possession?

25 A. No, no, no, it was not in your possession, but they're

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1 yours.

2 Q. Then, how did you identify them as mine?

3 A. Because it has your face on it.

4 Q. Well, they are a lot of things that have my face. You
5 received the document earlier that you said was an official
6 document. It has my face, but it doesn't belong to me.

7 A. Well, actually, yes, that's true. The document that you
8 showed me with the Brett Son of Isaac, it has your photo, but
9 it looks like homemade.

10 Q. Interesting.

11 A. So, I don't think that being legal compared to one from
12 California. So, I don't know.

13 Q. Well, we don't want to get into what things look like. We
14 want to get to the actual specifics. You said that it had a
15 photo.

16 A. Yes, that's correct.

17 Q. And, you said, because it had a photo, that it must have
18 been mine.

19 A. That is correct, sir.

20 Q. Okay, so that means that the item that you received
21 earlier is mine?

22 A. That is correct. It's yours.

23 Q. The item you received where Counsel asked you to read
24 what was in red belongs to me?

25 A. That is yours, yeah, Mr. Brett Jones-Theophilious.

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1 Q. Then, how come I've never had possession of that item,
2 that I've only seen it for the first time today?

3 A. You will have it because it's part of the Discovery
4 package.

5 THE COURT: Sir, questions. Not...

6 DEFENDANT: That was a question. He said that...

7 THE COURT: Sir, sir...

8 DEFENDANT: ... because it has a photo...

9 THE COURT: Sir, sir...

10 DEFENDANT: ... it belongs to me.

11 THE COURT: Sir, you're asking why it has not been
12 produced to you yet in Discovery, and this hearing is not
13 about why that document has not been produced yet in
14 Discovery.

15 The question is... this hearing is for you to ask
16 questions as to matters relevant to Probable Cause. Next
17 question, sir.

18 DEFENDANT: He stated that, because it had a
19 picture of someone, that it belongs to them. What I am trying
20 to make clear is, just because something has a picture,
21 doesn't mean it belongs to that person whom's picture or
22 photos or image may be on it. That what I'm clearly trying to
23 clear up here.

24 THE COURT: Noted. Next question.

25 THE COURT: Thank you.

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1 BY DEFENDANT:

2 Q. You have stated, in several parts of your Affidavit, that
3 you had interviewed several people. You mentioned the owner of
4 the apartment building, you mentioned the 'Uva' person, but I
5 don't note any names within your Affidavit.

6 Did you, by any chance, take notes and have a log of
7 the individuals that you spoke with.

8 A. I will answer you that one, but correction. I never
9 stated, in the Affidavit, nothing about those witnesses. I did
10 interviews. I interviewed them eventually. And, yes, I do have
11 copies of their statements. They are in your Discovery package
12 that will be provided to you with all statements.

13 Q. Interesting. I see that you mention here... I believe
14 paragraph number three, page number one... that, "Because this
15 Affidavit is submitted for limited purposes, I have not
16 included details of every aspect of the investigation. I am
17 thoroughly familiar with the information.".

18 And, then you mentioned about having discussions
19 with individuals.

20 A. Correct.

21 Q. Okay.

22 A. Sir, to explain to you, it's a process. When you do...

23 Q. No, no, no, I just... my question was specific. I said
24 did you put these names within your notes or within your logs
25 or within your report?

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1 A. They're there. That's what I answered you.

2 Q. That's what I was asking you.

3 A. Yeah, they're there with their statements.

4 Q. And, the final question I have for you today is... and it
5 is relevant... and it is very important that you answer this
6 question truthfully... have you ever lied?

7 A. A whole bunch of times in my life.

8 Q. Okay, what is the...

9 A. Especially when I was little.

10 Q. Thank you. I'm not going to do that. I'm sorry we have a
11 relationship. Sorry, I apologize. How are we to believe that
12 the information in your Affidavit is truthful, since you have
13 just admitted to lying previously?

14 A. I admitted to lying previously because, if I told you
15 right now that I didn't lie (sic), I might be lying in front
16 of the Court.

17 But, I do affirm that whatever it says in there is
18 true and the whole truth.

19 Q. But, my question is how are we to believe you?

20 A. Because it's the truth, and we will prove it here, in
21 Court.

22 Q. Because you say it's the truth we have to believe it?

23 MR. LOMBA: Your Honor, I think that the Witness
24 has already answered that question.

25 THE COURT: Well, I think that the point has

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1 already been made across. Sustained.

2 THE COURT: I just wanted to... thank you, and I
3 appreciate that. I just wanted to make sure that I had made my
4 point with the line of questioning. I have no further
5 questions for this particular Witness.

6 THE COURT: Alright, sir, you're excused.

7 WITNESS: Okay, thank you, sir.

8 THE COURT: AUSA Lomba, do you have any additional
9 witnesses?

10 MR. LOMBA: No, Your Honor. At this time we would
11 like to request that the Court finds... makes a determination
12 of Probable Cause, and...

13 THE COURT: Alright, hold on. Before I hear you as
14 to that, sir, are there... are you... or do you have any
15 witnesses here today to testify or you yourself will wish to
16 testify?

17 DEFENDANT: Other than the documentation that we
18 spoke about earlier, that, since they already have a copy of
19 it, and since it is on file with the Secretary of State, to
20 introduce that now as Exhibits for the Court, and that would
21 be the apostle from the Secretary of State.

22 THE COURT: Are those the documents that you
23 previously showed to the Prosecutor?

24 DEFENDANT: That is correct.

25 THE COURT: May I see, please, those documents for

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1 a moment.

2 (PAUSE)

3 (Revision of documents by the Court.)

4 THE COURT: Sir, would you like these documents to
5 be marked as Exhibits for purposes of this hearing?

6 DEFENDANT: Yes, because they were used in the
7 course of this investigation.

8 THE COURT: Any objection from the Government as to
9 this matter?

10 MR. LOMBA: Well, Your Honor, the objection would
11 be for the following reasons. It's that those documents are
12 not legal documents. They have not been authenticated by any
13 witness or in any way during the hearing today.

14 So, we would object to those being made part of the
15 record.

16 THE COURT: Well, I think that you are raising a
17 valid point. What I'm going to do is that I'll be taking into
18 account that this is a *pro se* Defendant.

19 MR. LOMBA: Yes, sir.

20 THE COURT: I'm going to be flexible and lenient as
21 to this aspect. I think that there is validity to the point
22 that you're making. But, I'll be flexible taking into account
23 that fact that the Defendant is *pro se*.

24 So, I'll allow them to be marked as Exhibits for
25 purposes for the Preliminary Hearing. So, they shall be marked

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1 as Exhibits A and B for purposes of the Preliminary Hearing.

2 Alright?

3 (Whereupon,

4 the above-mentioned documents were admitted into
5 evidence as Defendant Exhibits A and B.)

6 DEFENDANT: I will provide a copy of the originals
7 that have been authenticated with the Secretary of State, the
8 State of New Mexico...

9 THE COURT: Alright, alright, so, at this moment,
10 Mr. Lomba, I'll hear you as to the matter of Probable Cause.

11 MR. LOMBA: Yes, Your Honor. I understand that Your
12 Honor had the opportunity of hearing what the Special Agent
13 Albino testified before the Court, basically stating
14 information contained in the Affidavit.

15 So, at this time, I'm requesting from the Court a
16 determination for Probable Cause. I think all the elements of
17 the offense have passed through as evidence during the hearing
18 today, and that would be our request today, Your Honor.

19 THE COURT: Sir, if you would like to address the
20 Court as to the matter of Probable Cause, I'll hear you.
21 Otherwise, the matter stands submitted.

22 Now, if you have arguments as to the matter of bail,
23 that's a separate issue, and I will also give you an
24 opportunity to be heard as to the matter of bail.

25 But, at this moment, I would like to address the

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1 matter of Probable Cause. Is there anything that you would
2 like to say to the Court as to the matter of Probable Cause?

3 DEFENDANT: On just the issue on the matter of
4 Probable Cause, most certainly.

5 THE COURT: I'll hear you, sir.

6 DEFENDANT: Alright, the law that is introduced as
7 Federal Code, Title 18, 2250, I believe that it requires an
8 individual to provide name, photo, current address, telephone
9 number, probably automobile information.

10 The jurisdiction happens to be the... for the State
11 of Puerto Rico, for the city of *Lares*, for the *Río Prieto*
12 *Bárrio*, the *Castañer* Police Department.

13 The *Castañer* Police Department, as the Witness
14 testified, had been in communication with myself. However, in
15 regards to the registration, not only did they never respond
16 to a single communication... I have a total of six, different,
17 certified letters that they refused at their location... a
18 lawsuit is filed in the *Lares* Tribunal Court in direct result
19 to them not allowing access.

20 I have a total of five, recorded phone calls where I
21 did mention, in English, that the call was being recorded,
22 where they laughed, hung up or said there was no one there
23 that speaks English. The Agent also testified that they had no
24 one that speaks English.

25 The fact that someone is claiming that no one made

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1 an attempt, there were several attempts. That's why the
2 letters were sent certified mail.

3 The copy of the apostle that has been introduced
4 just for preliminary purposes, each of them have the name, the
5 identification number, the address, all current information,
6 for both this State and the State of New Mexico.

7 Also, in the issue of Probable Cause, it has been
8 brought to my attention that Section 2250 does not apply to
9 sex offenders who do interstate travel, and it occurs through
10 the affected dates of the law, the Sex Offender Registry Act.

11 Now, as I told everyone, my stay in Puerto Rico has
12 been as a result of health issues. I travel to and from. The
13 fact that anyone is saying that I've been here since July,
14 that's a fact.

15 That fact that anyone is saying that I've been here
16 continuously since July is a lie. It is incorrect, as the
17 Agent knows that he received a copy of two plane tickets.
18 Because I just did a function in California, to where the
19 gentleman sitting right here was at that function, where I
20 traveled back to New Mexico at least three times since July.

21 I have not been continuously in Puerto Rico, except
22 for these last two months, and that has been without my will.
23 I have medical needs to be taken care of, and my specialists
24 are all in New Mexico.

25 So, as far as anyone claiming that I have violated

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1 some law or that Brett Jones-Theophilious has violated some
2 law or anyone else has violated some law in regards to failing
3 to do something, the lawsuit filed in the *Lares* Tribunal Court
4 should provide enough evidence and proof as a copy of the
5 certified mail showing refused, returned, as a part of that
6 particular matter. It is introduced has evidence into that
7 particular case.

8 There's also a case that I have to provide
9 information back to the Court, because I have been asked by
10 the presiding judge of that Court to provided a response to an
11 Order that was introduced, and I have yet to be able to do
12 that.

13 So, as far as anyone saying that there's enough
14 evidence to do anything, all we have is someone saying what
15 someone said about something said when the facts prove that
16 there is no way that one individual did not give enough
17 information.

18 Lastly, the documents that he claimed that he had on
19 file, that he had on hand prior to coming and doing any
20 arrest, provided all the information necessary for the
21 registration requirements in any state in the Union.

22 The only thing it did not provide were fingerprints
23 or DNA. Fingerprints and DNA are unchangeable. No one can
24 change DNA, and to alter your fingerprints would take a lot of
25 work, of which I cannot afford. So, those are misnomers when

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1 it comes to registration.

2 THE COURT: Alright, thank you, sir.

3 DEFENDANT: If I could get some water?

4 THE COURT: Yes, certainly. That's fine, here. I'm
5 sorry, I just ran out of water myself, so I'll give you
6 whatever is left.

7 DEFENDANT: No, no, that's fine. That should be
8 more than enough for now. Thank you.

9 THE COURT: Very well, this is the decision of the
10 Court as to the matter of Probable Cause regarding the
11 criminal offense under Title 18, United States Code, Section
12 2250, Sub-Section (a).

13 I do make a finding that there is Probable Cause
14 that this offense has been committed. There has been testimony
15 given today by the Agent that this Defendant has not
16 registered in Puerto Rico as a sex offender.

17 There's also testimony that has been given that this
18 Agent interviewed several individuals, one of whom was the
19 landlord. I believe that he indicated that this Defendant had
20 been residing in Puerto Rico since July of 2012.

21 There's also evidence that this Defendant has been
22 convicted in Arizona for either... for a sex offense, and also
23 that there is an outstanding Arrest Warrant in New Mexico.
24 There appears to be perhaps an inconsistency, but not
25 necessarily so as to the Arrest Warrant in New Mexico.

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1 The Agent testified that it was also for failure to
2 register. The Pre-Trial Services Report said "For violation of
3 a Court Order.".

4 Well, those two things are not necessarily
5 inconsistent. I think that we would have to clarify what
6 exactly is the nature of the Order that was issued in New
7 Mexico. But, nonetheless, regardless, there is an outstanding
8 Arrest Warrant from New Mexico.

9 But, ultimately, the real relevant fact is...
10 because the outstanding Arrest Warrant really goes more to the
11 matter of bail than to the matter of Probable Cause... the
12 fact is that he has been convicted of a sex offense in
13 Arizona. He is required to register. He has not registered in
14 Puerto Rico.

15 According to the testimony, Defendant has been
16 residing since July of 2012, and, even though he disputes his
17 identity as being Brett Jones-Theophilious, the Agent
18 testified that he received multiple either I.D.'s or cards
19 that have the Defendant's photograph, and identify him as
20 Brett Jones.

21 Therefore, putting all those matters into account,
22 although the Defendant clearly disputes some of this facts, at
23 this juncture of the proceedings, the determination is whether
24 there is Probable Cause. It's not a determination as to
25 whether the Government has proven this matter beyond a

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1 reasonable doubt.

2 I believe that the Defendant has also indicated that
3 they're some certified letters that he sent, and there were
4 some issues regarding the police station not being able to
5 speak to him in the English language.

6 Some of those issues, to the extend that they may
7 show that he was attempting to register, might be relevant for
8 purposes of the offense that has been charged.

9 Nonetheless, at this stage of the proceedings, the
10 threshold is Probable Cause, not beyond reasonable doubt. And,
11 the question is, is there Probable Cause based on the
12 testimony that I've heard here today?

13 Yes, I do make such finding, and I make a finding of
14 Probable Cause as to the violation under Title 18, United
15 States Code, Section 2250, Sub-Section (a).

16 Having said that, we do need to address the matter
17 of bail, and I would like to first hear from the Government as
18 to the matter of bail. So, AUSA Lomba, I'll hear you at this
19 moment.

20 MR. LOMBA: Yes, Your Honor. We are requesting that
21 the Defendant remain detained without bail, and that is based
22 on the nature of the offense committed by the Defendant.

23 But, also, with the information as to his past
24 Criminal History, this Defendant has a history of arrest and
25 conviction. He was convicted in the year 1998. In addition to

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1 that, there is a Warrant for his arrest still pending in the
2 State of New Mexico.

3 This Defendant... as per the recommendation of the
4 Pre-Trial Services Report Officer, this Defendant presents a
5 risk of flight and a risk of nonappearance. So, therefore, we
6 are requesting that the Court finds that the Defendant remain
7 detained without bail, Your Honor.

8 THE COURT: Let me hear from the Defendant. Sir,
9 I'll hear you as to the matter of bail at this moment.

10 DEFENDANT: The document, the presentment that was
11 sent to the Court rebutting the Affidavit, was also a Counter-
12 Claim Cross Complaint.

13 The fact that... and it will take me a minute to get
14 back to my notes, because not only have I prepared for this,
15 but I also prepared for the decisions that have been made
16 today.

17 The flight risk, first, there is no so-called
18 Criminal History in over twelve years from anyone, and the
19 fact that, not only that everyone had the address, the
20 Secretary of State, the Department of Motor Vehicles, everyone
21 within the State, including the *Lares Tribunal*, the *Arecibo*
22 Tribunal, had the address, had the location of my whereabouts.

23 There has been no attempt to do anything, to flee,
24 to evade, to do anything. The situation in New Mexico is an
25 non-extraditable Warrant, but this Court is fully aware that,

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1 once a matter is removed from State Court to Federal Court,
2 that quashes that particular notice of Warrant.

3 The issue is being taken to Federal Court based on
4 several laws, but, in particular, Bond versus the United
5 States.

6 As I mentioned earlier, the Supreme Court made it
7 quite clear in the Bond case, and many people might be
8 familiar with that case, and I won't elaborate too much. But, a
9 woman took some chemicals, threw them in another woman's face
10 as a result of infidelity with her husband. She was sentenced
11 to twelve years in Federal penitentiary.

12 The case was appealed because Bond who, under the
13 Collective Entity Theory, was considered and construed to have
14 constitutional rights, and the Court ruled that her 10th
15 Amendment right to have the case tried in case in State Court
16 prior to Federal had been interfered with. So, the case was
17 remanded back to State Court. Well, that's the situation going
18 on in New Mexico.

19 The Court keeps trying to paint that there is no
20 difference between Brett Son of Isaac and Brett Jones-
21 Theophilous.

22 However, the United States Supreme Court and the FCC
23 versus ATT case of 2011 made it quite clear that there is
24 definitely a distinction between the fictional legal person
25 and the real person.

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1 Not only did they make distinction, but they've made
2 that distinction in several cases, and so that distinction is
3 exactly what the documents that have been presented to the
4 Court clearly indicate.

5 They are both Affidavits, they are both notarized by
6 the Secretary of State for two different states. One of them
7 even falls under the Geneva Convention that is called an Act
8 of State. There is no need for anyone to run because no one
9 has done anything wrong.

10 When we talk about whether or not there has been
11 contact with the *Castañer* Police Department, the Witness
12 testified that there had indeed been contact with the *Castañer*
13 Police Department.

14 How could someone be attempting to flee or be a
15 flight risk if they are contacting all of these agencies which
16 have arresting authority?

17 The issue in New Mexico, speaking in regards to bond
18 and being a flight risk, the presiding judge for that Court is
19 Judge Sleezy (phonetic). Judge Sleezy and I are on a first-
20 name basis for the most part. I don't call him by his first
21 name, I call him Judge Sleezy, because he is the presiding
22 judge of the 7th Judicial District Court where this Warrant
23 says to have come from.

24 Not only have I been in his office three times this
25 year alone, but no one had ever mentioned anything about this

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1 Warrant until the day of the arrest. Had I known about it when
2 I was in New Mexico, in November, I would have taken care of
3 this issue. But, immediately, I sent them a Notice of Removal,
4 and brought it to Federal Court, not as a tactic, but as the
5 simple fact that the matter in Arizona, the Plea Agreement,
6 had specifics to it which did not require continual
7 registration for any life term. There was a limit to it. And,
8 this State, the State of New Mexico, are interfering with
9 that.

10 Finally, in regards to bail and being a flight risk,
11 I look at this Pre-Sentence Report... sorry, I got one hand
12 pretty much tied behind my back... I look at the Pre-Sentence
13 Report, and I notice quite a few inconsistencies with the
14 actual facts.

15 I noticed that the individuals putting together the
16 report were going on with the information presented before
17 them, from one computer to the next.

18 But, this Pre-Sentence Report, as you mentioned in
19 your determination previously, contradicts the Affidavit by
20 the officer who did a thorough investigation. It mentions that
21 there was a disorderly conduct and a criminal trespass, but it
22 shows that no Complaint was filed.

23 Apparently, the Prosecution wants to use that as
24 evidence that there is a Criminal History, when he has no idea
25 as to the circumstances around that, and why no Complaint was

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1 filed, and why nothing was done any further.

2 We have a Dismissal Without Leave of the District
3 Attorney in Mecklenburg County (phonetic), North Carolina.
4 But, they want to use that as an issue for denying bail. The
5 Court is fully aware that, because of my health issues, I am
6 not one who has access to finances. However, it is at this
7 time during this...

8 THE COURT: Sir, I am not aware of that. But, if
9 that's the case, that you don't have access to finances, if
10 you consider yourself indigent, and you need the services of
11 an attorney as I have said to you several times, if you would
12 like to have an attorney to represent you, all you have to do
13 is fill out a Financial Affidavit.

14 And, if the Court determines that you're indigent,
15 the Court will provide an attorney for you free of charge. You
16 may proceed. Go ahead.

17 DEFENDANT: Okay, again, as I will bring to the
18 Court's attention, based on the facts, there is no finances in
19 order to pay for any bill. As I mentioned I will introduce
20 this during the Bail Hearing, so I need to get copies to be
21 able to present to...

22 THE COURT: Alright, I'll take... to the extent
23 that they're relevant to show that you don't have the finances
24 to be able to post bail, I think that's relevant. So, let me
25 look at these for a moment.

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1 Are these... I see, sir, that these are documents
2 that are written in pencil. Are these... did you write these
3 yourself? Is this your own handwriting or is this... or are
4 these letters from somebody else? What are these documents?

5 DEFENDANT: Did you read the caption?

6 THE COURT: I saw the caption, but I would like to
7 know where do these come from? Is this like you... you're
8 trying to... is this like a Motion that you're writing *pro se*
9 that you would like to get filed with the Court?

10 DEFENDANT: That is a presentment, as I mentioned
11 to you earlier, and you told me to hold off on it until this
12 portion of the hearing.

13 THE COURT: Oh, that's fine. If you want to file it
14 as a *Pro Se* Motion, I don't have any problem with that. We
15 will scan it, and we'll file it. So, just give me a second.

16 But, there's also a small piece of paper that is
17 kind of like A... I don't know... is this also a separate
18 Motion?

19 DEFENDANT: That is inclusive in that, and I
20 believe it is page three. And, that's backed by the Public Law
21 93224. That is the Full Faith and Credit Act introduced by
22 Congress or actually known as the Federal Financing Bank Act
23 of 1973.

24 THE COURT: It just looks like a handwritten check
25 in its entirety.

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1 DEFENDANT: Yes, it is not a check. It is
2 considered a Bill of Exchange under Unicitel (phonetic).

3 THE COURT: Alright, just give me a second so I
4 could look at your *Pro Se* Motion. But, we will file... we're
5 going to scan this Motion, and we're going to file it as a *Pro*
6 *Se* Motion, and let me just take a moment to read it.

7 (PAUSE)

8 (Revision of document by the Court.)

9 THE COURT: And, actually, I'm going to... let's
10 make a photocopy because that way... since the Government
11 doesn't have access to the Motion, let's make a photocopy. If
12 you would like to use the photocopy machine in chambers, you
13 might be able to get a faster copy.

14 DEFENDANT: If it is okay if I continue until they
15 bring the copies back.

16 THE COURT: Sure, absolutely, absolutely.

17 DEFENDANT: And, then we could talk about that
18 then.

19 THE COURT: Absolutely, you may proceed. Go ahead.

20 DEFENDANT: The incarceration, the imprisonment,
21 has resulted in no access to medical.

22 As a matter of fact since... well, I think I
23 received the... it's known as Anatrepteline (phonetic).
24 Anatrepteline acts as a muscle relaxant, and an agent that
25 allows me to relax enough to be able to get some sleep.

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1 As a result of the fact that I have been unwilling
2 to notarize documents with a autograph or a signature that
3 says Brett Jones-Theophilious, who I say that I am not, they
4 have decided to put me in special housing known as
5 "Administrative Segregation".

6 Administrative Segregation has a wonderful little
7 room on the opposite side of the cell. It's called a "Law
8 Library".

9 They are fully aware that I am speaking on behalf,
10 and that I am Counsel for this matter, but I have never seen
11 the inside of that room nor ever had access to any legal
12 supplies, legal materials, legal access whatsoever.

13 I am told that I must get a Court Order when there
14 has been, oh, I would say, at least three, four hundred cases
15 in the last fifteen years that talks about access to the Court
16 within a prison confinement.

17 Now, I'm not here to bring up all of the issues that
18 happened within the facility, but one of the most fundamental
19 of accesses is the right to access the Court. It has been the
20 most fundamental of all rights that anyone who has been
21 detained or in prison can have. I have not been afforded that
22 right.

23 The Court has the leeway, the same as New Mexico did
24 when they thought that someone, as it says here, did not obey
25 a Court Order... I never received a Court Order... but the

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1 Court has that very same option to issue an Arrest Warrant.

2 When the questioning of the Witness was done, as I
3 mentioned, the United States Supreme Court has said in several
4 cases... and, because have no access to my files, I have no
5 access to the unit where the proof of the contacting of the
6 *Lares* Police Department, and the *Castañer* Police Department,
7 and the lawsuits filed within the State of Puerto Rico
8 regarding that whole issue... I have no access to that because
9 I don't have access to getting into the unit to pull that
10 information and provide proof.

11 If the Court will deny bail, I ask the Court for
12 leave, at least a week, to be able to gather up the
13 information that I'm going to need to present as proof of the
14 information that I produced earlier.

15 THE COURT: Thank you for your argument, sir. I'm
16 just simply waiting for my Courtroom Deputy to bring a copy of
17 your Motion.

18 DEFENDANT: And, then I will continue with that
19 once it gets here.

20 THE COURT: Well, I think that, in the interest of
21 time, you should continue at this moment. I'll read your
22 entire Motion. I will read it.

23 But, if there's anything else that you need to add,
24 this is the moment to do so.

25 DEFENDANT: Throughout this matter, there is going

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1 to be the issue of Williams versus the United States. The fact
2 that most courts operate as a... how did they put it... a
3 "Legislative Tribunal", and not a constitutional body, so the
4 issue of jurisdiction is going to be one of the prime missions
5 for this matter.

6 In Braswell... and this is not any access to any
7 legal information... this is information that I retained...in
8 Braswell versus the United States, the Supreme Court ruled on
9 the Collective Entity Theory.

10 And, it talked about how, under the Collective
11 Entity Theory, the legal person, the legal fiction, the
12 individual, the person, the instrumentality, the entity, and
13 so on and so forth, can all be classified as one entity, and
14 they referred to it as a Collective Entity Theory.

15 I am... by telling everyone, my name has always been
16 Brett Son of Isaac. There is no birth certificate or anything
17 else by which anyone will find that will ever say Brett Jones-
18 Theophilious or anything else.

19 That is a name that I created, gave to a Court, and
20 then ordered the name changed for the Collective Entity, the
21 legal fiction.

22 It was stated on the record that being the case. So,
23 when I say that I've always been and have never been anything
24 other, that is exactly what I'm stating to this Court. That
25 I've always been Brett Son of Isaac, and I use Braswell versus

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1 the U.S. to support the fact that there is a difference
2 between the Collective Entity and the actual natural person,
3 real man.

4 The FCC versus ATT, that case being in 2011, said
5 the exact same thing. It just spoke of personal property. But,
6 the Supreme Court made it quite clear in parenthesis that
7 there is a difference between the legal person and the actual
8 natural being.

9 And, then we have the, as I mentioned earlier, Bond
10 versus U.S., and Lanier versus U.S. (phonetic) ... and please
11 do not take this personally... but Lanier versus the United
12 States, in 1979, says that it is incumbent on everyone and
13 anyone who brings forth a Complaint against a Judicial Officer
14 that they give notice.

15 I... again, don't take offense... must notice the
16 Court that, if any of the entitlements that are backed and
17 supported by the United States Constitution, and the laws of
18 humanity are infringed upon, then I must give Judicial Notice
19 on that.

20 THE COURT: Well, as I said, sir, when you were
21 brought for Initial Appearance, I believe that you were handed
22 a copy of the Criminal Complaint with the Affidavit, and
23 that's the notice that is being given to you as to what's the
24 nature of the charge, and what's the Affidavit in support.
25 And, I believe that, during the Initial Appearance, we also

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1 explained to you what was the nature of the charge. So, that's
2 one of the purposes of the Initial Appearance.

3 But, if... I have received your Motion. Can you
4 please give a copy of the Motion, since this has not been
5 filed yet in CMECF (phonetic), and he doesn't have a copy of
6 the same. Can I have a paper clip or something so that we can
7 just have all of this together?

8 DEFENDANT: Could I also mention one more thing to
9 you?

10 THE COURT: Yes, sir.

11 DEFENDANT: The Complaint that you are referring
12 to, apparently, when I got taken down to the Marshal's Station
13 here, in this particular Courtroom, they took the Complaint. I
14 have not seen the Complaint since the day I was here.

15 THE COURT: Oh, we'll, fix that right now. Ana,
16 could you please make a printout of...

17 DEFENDANT: Oh, Counsel gave me a copy.

18 THE COURT: Oh, you have another copy?

19 DEFENDANT: Yes.

20 THE COURT: So, you do have it right now with you,
21 a copy of the Criminal Complaint and the Affidavit?

22 DEFENDANT: Yes, she gave me the copy. I do have a
23 copy.

24 THE COURT: Alright, good, good, alright. Thanks
25 for bringing that to my attention.

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1 PAUSE

2 DEFENDANT: And, you will note, while reading that,
3 that it mentions the document that was sent to the Court on
4 the 4th, and it speaks of it in the past tense.

5 THE COURT: Alright.

6 DEFENDANT: Which means that... oh, I'm sorry. I
7 should bring to your attention that I have not had an
8 opportunity to call a single family member or a single member
9 of my team to let them know.

10 THE COURT: Alright, we'll... please, we'll
11 address that point once we're done with the matter of bail.
12 Okay?

13 DEFENDANT: Okay.

14 PAUSE

15 DEFENDANT: If I could disturb you just one moment,
16 there is something I did forget to mention?

17 THE COURT: Yes?

18 DEFENDANT: In regards to this Bail Hearing, I
19 just... if he's still here, the Agent for Homeland Security
20 Investigation, I just have a question that I need him to
21 answer in reference to the Bail Hearing.

22 THE COURT: Well, sir, the Preliminary Hearing is
23 over. But, if there's any argument that you would like to...
24 if there's any argument as to the matter of bail that you
25 would like to address in Court, I'll be glad to hear you. Is

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1 there any argument you would like to make to the Court?

2 DEFENDANT: It's not *per se* an argument. It's a
3 substantiation of the fact that there is no flight risk.

4 THE COURT: Alright, so, I'll hear your argument or
5 your point as to why you believe you're not a flight risk.

6 DEFENDANT: Not only... at, approximately, four,
7 thirty, on the 28th of December, that I received notice...
8 that's why you... by stopping the questioning... when I was
9 asking him about what time did he start his investigation that
10 day.

11 At four, thirty, I received a call. That call was
12 indicating that there were police at the location looking for
13 me.

14 Now, because I had just treated a family to dinner,
15 we left, had an overheating problem with the automobile.
16 Instead of fixing it, we added water and drove back. It
17 overheated twice more.

18 I dropped the family off, and proceeded to the home
19 knowing that those officers were there. When the officers
20 asked me who I was, and I gave them that information, I
21 literally said to them in regards to the fact that I knew that
22 they were there.

23 They asked me how did I know. I said "Because you
24 guys have been talking to all of the neighbors in the area,
25 and they made it no point to get in contact with me to let me

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1 know that you guys were here.”.

2 If I was a flight risk or trying to avoid anything,
3 would it not have been prudent for me to head someplace else,
4 and wait until they were no longer there, then come and
5 collect whatever I needed, and then leave?

6 The Affidavit provided by that individual attests to
7 so many different things that are not accurate. Not only have
8 I been, for the last ten years, an active member of the
9 community, helping everyone and anyone with their financial
10 issues, even with legal issues, as a private Attorney General
11 under U.S. Code, but doing this at no charge.

12 Why? Because it is an issue of giving back to the
13 community, and the reason why I need a week. I don't care how
14 long they keep me inside after that.

15 I have eighteen, different mortgages that I promised
16 individuals that I would do certain things on, that I would
17 send out certain correspondence.

18 I can't send out the correspondence from where I am,
19 meaning I can't keep my word. I've always been a man of my
20 word. If I say that I will do something, I do it. I am known,
21 throughout basically the world now with the YouTube videos
22 that I do, and the communication I do around the world, as a
23 person who keeps his word.

24 As my father said, and as I say to everyone, “A man
25 is nothing without his word.”. If individuals ask me, they get

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1 my word.

2 So, when the officers were there, not only does my
3 phone record every call... and I planned on... because the
4 individual who was on the other line is part of my team...
5 bringing that, and introducing that as evidence.

6 The calls to the *Castañer* Police Department letting
7 them know that it's recorded, bringing that before this
8 matter, not only am I telling the individual that I'm headed
9 home, that the police are there waiting for me, and that I am
10 not going to try to avoid this. Why? Because this issue needs
11 to be resolved once and for all.

12 The issue of the Plea Agreement in Arizona will come
13 up in this matter. That Plea Agreement, under the laws of
14 Arizona, permitted a Rejection of Probation, which included
15 the registration requirements accepted on the record in the
16 State of Arizona. It is a matter of the official record for
17 that matter.

18 I gave myself a promise that it would happen for ten
19 years, that I would voluntarily do it always reserving my
20 rights under Uniform Commercial Code, Article 3, Section
21 108... or excuse me... Section 1, Article 308... Article 1,
22 Section 308, sorry. And, I kept my end of the bargain, but
23 then I said, to keep there from being a problem, I would
24 continue.

25 When *Castañer* refused to accept those items, I

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1 continued to send them, up to six times. We'll be calling in,
2 and I'll bring this information up later in the witness list,
3 the Postmaster for *Castañer* Post Office who hand-delivered the
4 documents to the Police Department, and the Postmaster for
5 *Lares* who also made a plea to the *Castañer* Postmaster to
6 deliver those items because the Police Department was refusing
7 it. There hasn't been anybody attempting to not do anything...

8 THE COURT: Alright, I think that you have
9 communicated your... you have articulated your point as to
10 both, how you showed up to the authorities in *Lares*, and also
11 about the situation in Arizona, and your rejection of the
12 registration requirements.

13 DEFENDANT: Okay.

14 THE COURT: So, I think that you have conveyed your
15 point clearly.

16 DEFENDANT: Now...

17 THE COURT: This is the decision of the Court.

18 DEFENDANT: ... on that point of the rejection...

19 THE COURT: Well, sir, sir, I think I have given
20 you abundant time to express yourself. If you're going to say
21 something, get to the point, and say it succinctly.

22 I have given you much, much more time than I have
23 even given the Prosecutor to express themselves. Alright?

24 DEFENDANT: I appreciate it. I do appreciate it.

25 THE COURT: So, if there's anything else, this is

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1 your last shot, go for it, and go straight to the point.

2 DEFENDANT: Okay, I'm not trying to try your
3 patience, and I do appreciate it.

4 The issue of the rejection that will be brought up
5 later is under the Full Faith and Credit Clause of the United
6 States Constitution. That's all I was going to mention.

7 THE COURT: Alright, thank you, sir. Alright, I
8 would like to begin with the following.

9 I have read the *Pro Se* Motion that has been tendered
10 today, and that will be scanned and filed in the electronic
11 system.

12 And, I would like to say that there is a section
13 that a Self-Plea of Guilty to Facts says:

14 "Based on the facts contained herein, and on the
15 record, I enter a plea of guilty to the facts only, and a
16 plea of innocence to the charges on behalf of my client
17 Brett Jones-Theophilious.".

18 Well, I will simply... for purposes of the record, I
19 will take that as a not guilty plea regarding Defendant Brett
20 Jones-Theophilious.

21 Now, as to the matter of bail, several things. I
22 think that the Defendant has well articulated some reasons why
23 he believes that he is not a flight risk. I think that one of
24 them being that, when the police showed up in *Lares*, he went,
25 and presented himself. That he did not try to hide or evade

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1 from the police officers. So, in that regard, I believe that
2 he has made his point across.

3 Now, he has also brought to the attention of the
4 Court that there was some Plea Agreement of sorts in Arizona
5 that allegedly waived his requirement to register or that...
6 or where he rejected the matter of probation.

7 But, as far as I have from right now on the Pre-
8 Trial Services Report, it indicates that Defendant was
9 sentenced to a one year of imprisonment as to one count of
10 sexual assault to be served consecutively with any other
11 sentence imposed.

12 And, according to the testimony that I heard, the
13 Defendant has not registered here in Puerto Rico, and is being
14 sought in New Mexico for also failure to register.

15 So, the first thing is that we seem to have a
16 pattern. And, although certainly we cannot take matters that
17 have resulted in dismissal or acquittals with the same degree
18 or weight that we take matters that have resulted in
19 convictions... dismissals or acquittals are one thing...
20 convictions are another... but, yet, the 1st Circuit has
21 indicated that, when there is a pattern of arrest, those
22 matter can be taken into account.

23 And, we see, for example, that, in 1997, the
24 Defendant was detained for disorderly conduct and criminal
25 trespass, in 1998, for failure to appear in a first degree

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1 murder case, and a sexual assault, but, eventually, was
2 convicted only as to the sexual assault. In 2005, failure to
3 register, 2012, an Arrest Warrant outstanding in New Mexico.

4 So, although certainly the Defendant is correct in
5 terms that he does not have a prior... or that he does not
6 have a pattern of convictions... he's certainly correct in
7 that regard... there is a history of prior encounters with the
8 law with at least one conviction being in Arizona.

9 In addition to that, incrementing the potential for
10 risk of flight, we have the aliases, which, in the
11 Complaint... this Complaint, in the caption, indicates Brett
12 Jones-Theophilious, also known as Stevie Branch-Trickle
13 (phonetic), also known as B.J. Tuccio (phonetic), and also
14 Brett Son of Isaac. I believe that the multiple aliases also
15 increments the potential for risk of flight.

16 I think that the testimony at the Preliminary
17 Hearing is clear as to why the Agent believes that the
18 Defendant presently here, before the Court, is Brett Jones-
19 Theophilious.

20 Now, of greater concern is also that, according to
21 the Pre-trial Services Report, this Defendant was found in
22 possession of an identification document that indicates that
23 it was issued by the land of Pangea (phonetic).

24 And, according to the documents found, it indicates
25 that the Grantor (phonetic) will never submit to any

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1 jurisdiction at any time or in any situation.

2 So, it appears that this Defendant does not
3 recognize the jurisdiction of the United States, and that he
4 is not willing to submit to its jurisdiction, to the
5 jurisdiction of this Court. That clearly presents some
6 significant concerns as to...

7 DEFENDANT: I have to object to that.

8 THE COURT: Yes, sir?

9 DEFENDANT: I have to object to that. I thought we
10 clarified that at the very beginning of this matter when I
11 first stood up to the Court.

12 THE COURT: Well, if you are... you can say for the
13 record, if you like, that you're willing to submit. Are you
14 willing to recognize and submit to the jurisdiction of the
15 Court?

16 DEFENDANT: **NO AUDIBLE RESPONSE FROM DEFENDANT.**

17 THE COURT: I think you were indicating that you
18 were making a Special Appearance. I think you had said more
19 than once that you were making a Special Appearance.

20 DEFENDANT: Yes, and, as such, that is allowed
21 under law.

22 THE COURT: Alright.

23 DEFENDANT: But, what I'm trying to get the Court
24 to understand is there has been nothing that I've ever stated
25 about not recognizing jurisdiction.

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1 The first thing I just imposed... or posed to the
2 Court, when I walked up here, and I just sat here, and spoke
3 about what's jurisdiction.

4 I brought up Williams versus the United States.

5 THE COURT: Alright, so the Court will take into
6 account that the Defendant is now indicating that he is
7 willing to submit to the jurisdiction of this Court.

8 That does not negate the fact, however, stated in
9 the Pre-Trial Services Report, that the Defendant was found in
10 possession of identification that basically says that he's a
11 non-citizen national of America (phonetic), Travel Permit
12 I2546554AADX, which was issued by the land of Pangea. The
13 front of the documents reads as follows:

14 "The General Administrator, Grantor, Captain,
15 Beneficiary, Director, governor, Landlord, Commander of
16 Self-Determination and Ordination of All Levels, your
17 conscientious existence (phonetic), four thousand,
18 twenty-six, BCE. Expiration Date: 12/31/3099 A.D., not a
19 Collective Entity.

20 All contracts are conditionally excepted under
21 conditions listed or reversed without prejudice and
22 rights reserved. Peace treaty by a peaceful, non-
23 combative, non-aggressive inherent of the land.

24 All contracts by a minister are payable to the
25 United States of America without recourse.".

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1 On the reverse side of the document, it reads:

2 " The Grantor will never submit to any jurisdiction
3 at anytime or in any situation. That my human rights are
4 never to be trampled, and, for each instance, as well as
5 offense, against my secured rights are a penalty, and
6 twenty thousand dollars will be due at the time of such
7 offense and/or initiation of such contract offers.". And,
8 it goes on with other matters.

9 So, sir, I'm just simply reading what the Pre-Trial
10 Services Report has submitted to the Court in terms of the
11 identification document that was produced.

12 Although, I will also take into account your
13 statement that you are now willing to acknowledge and
14 recognize the jurisdiction of this Court.

15 So, having said that, I believe that there are no
16 conditions of release to adequately address the concern of
17 risk of flight, and I issue Defendant's appearance to further
18 Court proceedings based on the pattern of aliases, his
19 unwillingness to recognize his truthful name, his pattern of
20 failure to appear or failure to register or outstanding
21 Warrants, and there is a pattern of prior encounters with the
22 law, and also concerns are raise about even the identification
23 document found in his possession.

24 Taking all those matters into account, and that,
25 according to the Pre-trial Services Report, there is an

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1 outstanding Arrest Warrant from New Mexico, I find that the
2 Defendant presents a risk of flight, and that he should be
3 detained on those grounds.

4 Therefore, Mr. Brett Jones-Theophilious you are
5 hereby ordered detained, also known as Brett Son of Isaac. You
6 are hereby ordered detained pending trial on the basis of risk
7 of flight.

8 As to the matter of the access to medical treatment,
9 a memo... a Memorandum shall be sent to the Bureau of Prisons
10 to alert the medical staff, at the Bureau of Prisons, that the
11 Defendant has indicated that he is not receiving medical
12 treatment for his conditions.

13 I believe that there was a first Memorandum
14 indicating two conditions, correct?

15 COURTROOM DEPUTY: Yes, Your Honor.

16 THE COURT: Alright, so you might want to resend
17 that Memorandum as well. So, that second Memorandum will be
18 sent so that the Defendant can be evaluated by the medical
19 staff at MDC, and treated accordingly with the pertinent
20 treatment, if necessary.

21 As to the ability to call a family member, Marshals,
22 please give the Defendant an opportunity to call his family.
23 So, whether that's done here or whether that's done in MDC, I
24 leave that to the discretion in terms of what's the most
25 practical aspect. But, I believe that the Defendant should be

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1 given an opportunity to be able to call a family member.

2 So, please give him that chance either here or at
3 MDC, but please make sure that he's given that opportunity
4 today so that he can at least contact a family member, and
5 advise his family member that he has been arrested, and that
6 he is facing this criminal charge. Alright?

7 So, it doesn't have to be a lengthy call, but
8 basically an opportunity to give him a chance to let a family
9 member know that he is here, that he has been arrested, and
10 that he's facing this charge.

11 MR. LOMBA: Your Honor, with this suffice? I
12 believe he has an individual that's known to him in Court.

13 THE COURT: Well, I don't know. Sir, is that a
14 family member?

15 DEFENDANT: Sí, sí.... I said sí. Yes.

16 THE COURT: Oh, alright. Well, maybe if you...
17 Marshals, then maybe either it can be here or it can be at the
18 cellblock, wherever you think that it's most practical.

19 But, if you could just give him a minute so that he
20 can talk to his family member, in case that he wants to make
21 any kind of arrangements for purposes of securing an attorney
22 or any matter that have to do with loose ends.

23 Just a minute so that he can talk with his family
24 member. Alright? Okay, and that will certainly then waive the
25 need to make the... allow the phone call. Alright? So, just

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1 please give the Defendant a chance... give him a chance so
2 that he could talk to his family member.

3 Very well, you may withdraw. The Motion shall be
4 scanned and made part of the record.

5 (Whereupon, the hearing in the above-mention proceeding was
6 terminated.)

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1 ||| TRANSCRIBER CERTIFICATION

3 I, CRYSTAL INCHAUSTEGUI BREAZ, Transcriber, do
4 hereby certify that the foregoing transcript was transcribed
5 by me to the best of my abilities.

7 I CERTIFY that all "(inaudible)", "(phonetic)", and
8 "(unintelligible)" were carefully reviewed and found to be as
9 written.

10
11 I FURTHER CERTIFY that I am not interested in the
12 outcome of the case mentioned in said caption.

14 S/ CRYSTAL INCHAUSTEGUI
15 CRYSTAL INCHAUSTEGUI BREAZ

17 I, DIANE BREAZ, RPR and Official Court Reporter for
18 the District Court of Puerto Rico, certify that the foregoing
19 transcript has been verified and certified by me.

21 S/ DIANE BREAZ
22 DIANE BREAZ

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